

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Team # 5	CCRB Case #: 201107141	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 05/26/2011 10:15 PM	Location of Incident: § 87(2)(b) and at the 23rd Precinct stationhouse	Precinct: 23	18 Mo. SOL 11/26/2012	EO SOL 11/26/2012	
Date/Time CV Reported Fri, 06/03/2011 8:43 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 06/03/2011 8:43 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Edgar Figueroa	08440	947751	023 PCT
2. SGT George Rivera	01161	896653	023 PCT
3. POM Daniel Leek	26566	945913	023 PCT
4. Officers			023 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT James Gerrity	00758	925344	023 PCT
2. LT William Cook	00000	903677	INT CIS
3. POM Christopher Banas	04493	934447	023 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Edgar Figueroa	Force: At § 87(2)(b) in Manhattan, PO Edgar Figueroa struck § 87(2)(b) with an asp.	
B.POM Daniel Leek	Force: At § 87(2)(b) in Manhattan, PO Daniel Leek struck § 87(2)(b) with an asp.	
C. Officers	Force: At § 87(2)(b) in Manhattan, officers struck § 87(2)(b) with an asp.	
D.POM Edgar Figueroa	Force: At § 87(2)(b) PO Edgar Figueroa used his foot to push § 87(2)(b)'s face against the ground.	
E. Officers	Force: At § 87(2)(b) in Manhattan, officers used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
F. Officers	Force: At § 87(2)(b) in Manhattan, officers used pepper spray against § 87(2)(b) § 87(2)(b) and § 87(2)(b)	
G.SGT George Rivera	Abuse: At the 23rd Precinct stationhouse, Sgt. George Rivera authorized the strip search of § 87(2)(b)	

Case Summary

On June 3, 2011, § 87(2)(b) M. § 87(2)(b) filed a complaint with the CCRB on behalf of her daughter, § 87(2)(b) § 87(2)(b) and her son, § 87(2)(b) by phone (Encl. 8A).

On May 26, 2011, at approximately 10:15 p.m., § 87(2)(b) § 87(2)(b) § 87(2)(b) interacted with officers at § 87(2)(b) in Manhattan, and later at the 23rd Precinct stationhouse. The following allegations resulted:

- **Allegation A – Force:** At § 87(2)(b) in Manhattan, PO Edgar Figueroa struck § 87(2)(b) with an asp.
- **Allegation B – Force:** At § 87(2)(b) in Manhattan, PO Daniel Leek struck § 87(2)(b) with an asp.
- **Allegation C – Force:** At § 87(2)(b) in Manhattan, officers struck § 87(2)(b) with an asp. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g).
- **Allegation D – Force:** At § 87(2)(b) in Manhattan, PO Edgar Figueroa used his foot to push § 87(2)(b)'s face against the ground. § 87(2)(b), § 87(2)(g), § 87(2)(a) Gen. Mun. § 50-b(2)
§ 87(2)(g)
§ 87(2)(g).
- **Allegation E – Force:** At § 87(2)(b) in Manhattan, officers used physical force against § 87(2)(b) § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g).
- **Allegation F – Force:** At § 87(2)(b) in Manhattan, officers used pepper spray against § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g).
- **Allegation G – Abuse of Authority:** At the 23rd Precinct stationhouse, Sgt. George Rivera authorized the strip search of § 87(2)(b) § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g).

This case was originally assigned to Investigator Henry on June 10, 2011. The case was reassigned to the undersigned, Investigator Godshall, on April 23, 2012, when Investigator Henry went on extended leave.

Results of Investigation

Civilian Statement(s)

Complainant: § 87(2)(b)

- § 87(2)(b) is the mother of § 87(2)(b) § 87(2)(b) and § 87(2)(b) M. § 87(2)(b) provided a telephone statement to the CCRB on June 23, 2011 (Encl. 8A). She did not observe the incident and therefore, her testimony could not be used to assess the allegations.

Victim: § 87(2)(b) § 87(2)(b) § 87(2)(b)

- § 87(2)(b) § 87(2)(b) § 87(2)(b) is the daughter of § 87(2)(b) M. § 87(2)(b) and the sister of § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) old at the time of the incident, is a § 87(2)(b) § 87(2)(b).

Notice of Claim

§ 87(2)(b) § 87(2)(b) § 87(2)(b) provided a written statement when she filed a Notice of Claim with New York City on June 2, 2011. On May 26, 2011, at approximately 10:00 p.m., while she was lawfully in front of her friend's apartment building at § 87(2)(b) § 87(2)(b) in Manhattan, she was attacked by members of the NYPD. She was assaulted, beaten, battered about her body, then handcuffed and falsely imprisoned at the 23rd Precinct for one day (Encl. 11A-B).

CCRB Testimony

On July 8, 2011, § 87(2)(b) § 87(2)(b) § 87(2)(b) was interviewed at the CCRB (Encl. 11C). Her statement was consistent with her telephone statement that had been provided on June 23, 2011 (Encl. 11D-F). The statements have been summarized below.

On May 24, 2011, at approximately 10:15 p.m., § 87(2)(b) § 87(2)(b) § 87(2)(b) was with her friend § 87(2)(b) as well as her other friends § 87(2)(b) § 87(2)(b) “§ 87(2)(b)” and “§ 87(2)(b)”. She did not know any of these girls' last names. The group went to a store on the corner of Madison Avenue and East 111th Street, in Manhattan. § 87(2)(b) § 87(2)(b) § 87(2)(b) and Sherrell remained outside while the rest of the group went inside. § 87(2)(b) was standing approximately twenty feet away, near a bus stop. § 87(2)(b) was approached for unknown reasons by two uniformed officers on foot, identified through the course of the investigation as PO Edgar Figueroa and PO Daniel Leek of the 23rd Precinct. § 87(2)(b) § 87(2)(b) § 87(2)(b) approached the officers to see what was happening. The officers ordered § 87(2)(b) § 87(2)(b) § 87(2)(b) and the rest of her friends to go across the street. The officers then allowed § 87(2)(b) to leave.

PO Figueroa and PO Leek then told § 87(2)(b) § 87(2)(b) § 87(2)(b) to go inside of the building located at § 87(2)(b) § 87(2)(b) in Manhattan. They did not give a reason for their command. She argued with the officers, stating that they had just complied with their command to leave by crossing the street. § 87(2)(b) § 87(2)(b) § 87(2)(b) wanted to know why she was being told to enter the building. Her brother, § 87(2)(b) came out of the building and told his sister to come inside. He asked the officers, “Why the fuck are you bothering my little sister?” § 87(2)(b) § 87(2)(b) held the door open and § 87(2)(b) § 87(2)(b) § 87(2)(b) entered the building with her friends. None of them ran. Inside, § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) argued with one another because he did not like her interacting with the police. The group entered the building's courtyard. § 87(2)(b) § 87(2)(b) § 87(2)(b) then observed the security guards at the front desk opening the door, admitting PO Figueroa and PO Leek. The officers walked up to § 87(2)(b) § 87(2)(b) told them that they had been bothering his sister. § 87(2)(b) § 87(2)(b) brother of § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) saw his brother speaking with the officers, and asked them what was going on. The officers told him that the situation did not concern him. § 87(2)(b) § 87(2)(b) insisted that he be told what was happening, as the situation involved his siblings. The conversation between PO Figueroa, PO Leek, § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) became heated, and all four began to shout. § 87(2)(b) § 87(2)(b) § 87(2)(b) also began shouting for everybody to calm down, but her voice was drowned out.

PO Leek then radioed for backup officers to respond to the location. After the call was made, § 87(2)(b) § 87(2)(b) § 87(2)(b) walked away from the argument. The officers and her brothers continued arguing loudly after the call was made. Within a few minutes, approximately thirty officers in both uniform and plainclothes responded to the scene. As soon as backup arrived, PO Figueroa and PO Leek rushed towards § 87(2)(b) The two officers grabbed him by his arms and pulled him to the ground. § 87(2)(b) § 87(2)(b) § 87(2)(b) could not see exactly what PO Figueroa and PO Leek did to her brother, since she had moved away from them once she left the argument. Approximately twenty officers whom § 87(2)(b) § 87(2)(b) § 87(2)(b) could not describe then surrounded § 87(2)(b) and hit him with closed fists and nightsticks. She did not know how many times he was hit. She did not describe where the blows landed. She did not state whether § 87(2)(b) was resisting the officers or not. § 87(2)(b) § 87(2)(b) § 87(2)(b) tried to pull her brother out from underneath the officers. She only touched § 87(2)(b) and did not make physical contact with any of the officers. She was hit while trying to aid her brother, but she could not describe where on her body the blow landed, or whether she was punched, kicked, or struck with an object. She stated that she had been too occupied by her brother's situation to pay attention. She did not state if or how the officers eventually got § 87(2)(b) into handcuffs, or if the officers continued striking him after he was handcuffed. The officers then lifted § 87(2)(b) up off the ground. § 87(2)(b) § 87(2)(b) § 87(2)(b) then backed away and moved back against a gate. An officer, whom she could not describe, pepper sprayed § 87(2)(b) § 87(2)(b) § 87(2)(b) in both eyes. She was then placed in handcuffs. § 87(2)(b) § 87(2)(b) § 87(2)(b) was later informed that a group of people including § 87(2)(b) § 87(2)(b) § 87(2)(b) s girlfriend § 87(2)(b) and § 87(2)(b) § 87(2)(b) s sister § 87(2)(b) had also been pepper sprayed. She did not observe these people get sprayed.

§ 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) were taken out to the street and "thrown" inside a van. She did not clarify whether this meant that they were pushed in or physically lifted and propelled into the van. The siblings were then taken to the 23rd Precinct stationhouse. At the stationhouse, § 87(2)(b) § 87(2)(b) § 87(2)(b) was taken into a bathroom and washed her eyes with the help of two female officers whom she could not describe. She returned to the front desk area and saw that § 87(2)(b) was only wearing boxer shorts and a tank top. Seeing her brother's pants on the front desk, she reached to pick them up. Approximately five officers, including the two females that had assisted her wash her eyes, grabbed her by her arms and pushed her to the ground. She was then moved to a holding cell where she remained until she was taken to Central Booking.

Victim: § 87(2)(b)

- § 87(2)(b) is the son of § 87(2)(b) M. § 87(2)(b) and the brother of § 87(2)(b) § 87(2)(b) § 87(2)(b) old at the time of the incident, is a § 87(2)(b) § 87(2)(b) § 87(2)(b) is currently unemployed.

Notice of Claim

§ 87(2)(b) provided a written statement when he filed a Notice of Claim with New York City on June 2, 2011. On May 26, 2011, at approximately 10:00 p.m., § 87(2)(b) § 87(2)(b) was walking out of his girlfriend's apartment building at § 87(2)(b) § 87(2)(b) in Manhattan, when he was attacked by many members of the NYPD, including PO Edgar Figueroa. § 87(2)(b) was assaulted, beaten, battered about his head, face and body, denied

medical attention, handcuffed and falsely imprisoned at the 23rd Precinct for two days. (Encl. 10A-B)

CCRB Testimony

On July 8, 2011, § 87(2)(b) was interviewed at the CCRB (Encl. 9C-9E). The statement has been summarized below.

On May 26, 2011, at approximately 7:15 p.m., § 87(2)(b) had consumed approximately 3 cups of wine. He did not feel intoxicated afterwards, and could recall his actions completely.

At approximately 10:15 p.m., § 87(2)(b) and his girlfriend § 87(2)(b) were inside the lobby of § 87(2)(b) in Manhattan. A fight had occurred in the area earlier that day at an unknown time, and officers were still in the vicinity. § 87(2)(b) observed his sister, § 87(2)(b) § 87(2)(b) through the building's glass front doors. His sister was engaged in an argument with two uniformed police officers, identified in the course of the investigation as PO Edgar Figueroa and PO Daniel Leek of the 23rd Precinct. He did not know how the argument had started. § 87(2)(b) opened the door and asked, "What the fuck is going on?" § 87(2)(b) § 87(2)(b) said that the argument was not serious. She then entered the building, accompanied by approximately three friends of hers that § 87(2)(b) did not know. § 87(2)(b) berated his sister, telling her that she should not be interacting with the police because they are abusive. The siblings then entered the building's courtyard.

A security guard then opened the building's front doors and allowed PO Figueroa and PO Leek inside. The officers entered the courtyard's entrance approximately fifteen feet away from § 87(2)(b) but they did not approach or speak to him. § 87(2)(b) continued berating his sister. He told her that police officers like to harass people, and said that officers are "punks." PO Figueroa then made a call on his radio. Approximately two minutes later, PO Figueroa told § 87(2)(b) "You're under arrest." PO Figueroa then pushed § 87(2)(b) into a nearby gate. § 87(2)(b) stumbled after being pushed, but did not fall down. PO Figueroa did not issue any commands to § 87(2)(b) during this action. Approximately thirty additional officers then entered the courtyard, coming in behind § 87(2)(b). The officers were mostly white, and in a mix of plainclothes and uniforms. One of the officers was either a white or Hispanic female. Several of these officers then approached § 87(2)(b). An officer twisted § 87(2)(b)'s right arm back and placed a handcuff on his right wrist. The group of officers then pushed him down to the ground. PO Figueroa placed his boot on the left side of § 87(2)(b)'s face, pushing his face into the sidewalk, causing abrasions. While on the ground, § 87(2)(b) was able to move his right hand, which was still handcuffed, under his chest. The officers attempted to pull his right arm behind his back to connect the handcuffs to the left arm, which they had control of. § 87(2)(b) was punched and hit with asps on his back and legs by the officers approximately twenty times while they tried to control his right hand. These officers were eventually able to pull both of § 87(2)(b)'s hands behind his back and handcuff him. The struggle to handcuff him lasted approximately five to ten minutes. § 87(2)(b) initially stated that he was not hit after he was handcuffed, but later stated that he received approximately three more blows to his back after he was handcuffed. § 87(2)(b) did not see the officers that delivered these blows. He did not specify whether these blows were punches, kicks, or from a baton. He did not state whether he continued resisting the officers after he was handcuffed. § 87(2)(b)

§ 87(2)(b) denied punching or kicking any of the officers during the struggle. He was not pepper sprayed during the struggle.

As § 87(2)(b) lay on the ground, he observed an unidentified male officer pepper spray a crowd of people. The group included his girlfriend, § 87(2)(b). He did not see any officers pepper spray § 87(2)(b) or his brother, § 87(2)(b) who was also in the courtyard at the time. After the pepper spraying, a group of approximately six officers lifted § 87(2)(b) into the air by his arms and legs. The officers carried him outside and “threw” him into a police van. He did not clarify whether this meant he was lifted off the ground and tossed into the van, or if he was forcibly pushed inside. While entering the van, § 87(2)(b) hit his head on the van door. He lost one of his sneakers while being carried to the van, and was not allowed to put it back on. He was taken to the 23rd Precinct stationhouse.

At the stationhouse, the desk officer, identified through the course of the investigation as Sgt. George Rivera of the 23rd Precinct, asked whether he had been searched. § 87(2)(b) stated that he had not been searched, and that all he had with him was his cell phone and his wallet. Several officers were with § 87(2)(b) at the time. Many of these officers had also been present at § 87(2)(b). § 87(2)(b) could not provide any descriptions for these officers. One of the officers then told him, “Take your clothes off.” Still standing at the front desk, § 87(2)(b) slid down his pants a little bit and kicked off his remaining sneaker. Another officer approached and pulled his pants completely off and placed his hands into § 87(2)(b)'s pockets. The officer removed § 87(2)(b)'s cell phone and wallet. § 87(2)(b) remained in his boxer shorts. At the conclusion of the search, the officers did not allow him to put his clothes back on. § 87(2)(b) § 87(2)(b) was present for the strip search. From his position in front of the desk, § 87(2)(b) was able to see several unknown individuals in the holding cells. These individuals were able to see him as well. Sgt. Rivera was present for the strip search.

§ 87(2)(b) and § 87(2)(b) § 87(2)(b) initially remained together when they were brought to the station. While waiting to be placed in a holding cell, he lost sight of her for a brief period. When she returned, he recalled being upset with the officers for something they had done; at the time of the interview, though, he could not recall exactly what had made him so upset. § 87(2)(b) began to feel dizzy and the officers called for an ambulance. He claimed that he was taken to Metropolitan Hospital and treated for his abrasions. § 87(2)(b) was ultimately charged with resisting arrest.

Victim: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *old at the time of the incident, is a* § 87(2)(b)

CCRB Testimony

On August 3, 2011, § 87(2)(b) was interviewed at the CCRB (Encl. 11A). Her statement was consistent with her telephone statement that had been provided on August 1, 2011 (Encl. 11B-D). The statements have been summarized below.

On May 26, 2011, at approximately 10:15 p.m., § 87(2)(b) and her boyfriend, § 87(2)(b) were in the apartment building where she lives, at § 87(2)(b) in

Manhattan, § 87(2)(b) saw his sister, § 87(2)(b) § 87(2)(b) who was standing in front of the building's glass front doors, speaking with two police officers, identified in the course of the investigation as PO Edgar Figueroa and PO Daniel Leek of the 23rd Precinct. § 87(2)(b) went outside while § 87(2)(b) went into the building's interior courtyard with several friends, including her sister, § 87(2)(b) and § 87(2)(b)'s brother, § 87(2)(b). § 87(2)(b) did not witness the exchange between § 87(2)(b) and the officers. A few minutes later, § 87(2)(b) and § 87(2)(b) entered the courtyard. § 87(2)(b) asked § 87(2)(b) why she had been speaking with the police. He told her that police officers abuse their authority and harass people. PO Figueroa and PO Leek then entered the courtyard. § 87(2)(b) started shouting at the officers, asking them why they were harassing his sister. He did not get close to the officers, or state, "You want to fight – let's fight." Initially, the officers stood their ground, and made no response to § 87(2)(b). Eventually, § 87(2)(b) joined his brother and asked the officers what they were doing in the courtyard. § 87(2)(b) attempted to calm both of her brothers down, to no avail. One of the officers then spoke into his radio. § 87(2)(b) did not hear what he said. The two officers then left the courtyard.

Moments later, someone yelled out that police officers were coming. Three uniformed officers, whom § 87(2)(b) could not describe, approached § 87(2)(b) and pulled his left arm behind his back. One of the officers placed a handcuff on § 87(2)(b)'s left wrist. He was unable to connect the handcuffs to § 87(2)(b)'s right wrist. § 87(2)(b) could not say whether PO Figueroa or PO Leek were among these three officers. Approximately ten of the officers then entered the courtyard. § 87(2)(b) could not describe any of these officers. The officers surrounded § 87(2)(b) and pushed him to the ground. While on the ground, § 87(2)(b) moved his right arm under his body, and held it there, preventing the officers from connecting his handcuffs. The officers then began striking § 87(2)(b) on his left side with batons. § 87(2)(b) did not specify how many times they struck § 87(2)(b). An officer then placed his boot on the side of § 87(2)(b)'s face and pushed his face into the ground. § 87(2)(b) attempted to move towards § 87(2)(b) but her path was blocked by an unidentified officer. She did not state if or how the officers managed to handcuff § 87(2)(b) or if any force was used against him after he was handcuffed.

A different unidentified plainclothes officer told § 87(2)(b) and a group of approximately eight people, "Get back or I'm going to mace you." The officer was a 5'9" white male, wearing jeans and a navy-blue t-shirt. The officer then produced pepper spray from his waist area and sprayed the group for one to two minutes. After being sprayed, § 87(2)(b) noticed § 87(2)(b) in handcuffs near the entrance to the courtyard. § 87(2)(b) did not know what had happened to § 87(2)(b) between the time the officers first left the courtyard and when she saw her in handcuffs. § 87(2)(b)'s eyes appeared red and swollen. § 87(2)(b) ran to assist her. § 87(2)(b) and § 87(2)(b) were then walked out to a police van parked on the street and placed inside. She did not state how the § 87(2)(b) entered the van. While in the van, § 87(2)(b) § 87(2)(b) shouted, "Mommy, they maced me." The § 87(2)(b) were then removed from the location.

On May 10, 2012, an attempt was made to contact § 87(2)(b) to arrange a photo array. Her number was no longer in service. Between May 10, 2012 and May 16, 2012, three attempts were

made to call her mother § 87(2)(b), the emergency contact § 87(2)(b) had provided during her interview, in an attempt to locate a new telephone number. On May 22, 2012, a Lexis Nexis search returned a disconnected telephone number for § 87(2)(b)

Attempts to Contact Civilians

- § 87(2)(b) scheduled interview appointments on June 29, 2011 and July 8, 2011. He failed to appear for either appointment. § 87(2)(b) did not call to cancel or reschedule either appointment.
- § 87(2)(b) § 87(2)(b) § 87(2)(b) was unable to provide last names or contact information for her friends § 87(2)(b) or § 87(2)(b). No other information about these individuals was found.
- From July 13, 2011 to August 23, 2011, five attempts were made to contact § 87(2)(b) by telephone. Please-call letters were mailed on July 13, 2011 and August 22, 2011. Neither were returned to the CCRB by the US Postal Service.
- § 87(2)(b) § 87(2)(b) § 87(2)(b) was able to provide an address but not a telephone number for § 87(2)(b). Please-call letters were mailed to § 87(2)(b) on July 13, 2011 and August 22, 2011. Neither were returned to the CCRB by the US Postal Service. Attempts were made to call § 87(2)(b) § 87(2)(b) § 87(2)(b) to acquire § 87(2)(b)'s telephone number on August 30, 2011 and September 13, 2011. On August 30, 2011, searches of Yellowpages.com and Coles were conducted for § 87(2)(b). This search produced no viable results.
- § 87(2)(b) was unable to provide last names for her friends "§ 87(2)(b)" and "§ 87(2)(b)". She was unable to provide contact information for any of these individuals, or her friend § 87(2)(b). No other information about these individuals was found.

NYPD Statement(s):

Subject Officer: PO EDGAR FIGUEROA

- *PO Edgar Figueroa, § 87(2)(b)*
- *On May 26, 2011, PO Figueroa worked from 1:30 p.m. until 12:35 a.m. He was assigned to a foot post with PO Daniel Leek, and was in uniform.*

Memo Book

At 10:15 p.m. PO Figueroa told § 87(2)(b) § 87(2)(b) § 87(2)(b) to move from in front of § 87(2)(b) § 87(2)(b) § 87(2)(b) appeared and cursed at PO Figueroa. Additional units were called to the location and at 10:31 p.m. two arrests were made (Encl. 12A-C).

Arrest Report and Criminal Complaint Report

According to the criminal complaint reports and arrest reports for § 87(2)(b) and § 87(2)(b) § 87(2)(b) § 87(2)(b) which were prepared by PO Figueroa, both individuals were arrested at 10:31 p.m., inside of § 87(2)(b), in Manhattan. The narratives in § 87(2)(b) § 87(2)(b)'s reports stated that he was "acting in a loud and boisterous behavior by aggressively screaming and cussing at the police." § 87(2)(b) fought with the arresting officers by refusing to be handcuffed. He was charged with obstructing governmental administration, resisting arrest, and two counts of disorderly conduct for violent behavior and unreasonable noise. The narratives in § 87(2)(b) § 87(2)(b) § 87(2)(b)'s reports stated that she was "acting in a violent behavior by fighting with the police." She then attempted to prevent officers from performing a lawful arrest by pulling them off of a handcuffed perpetrator. She was charged

with obstructing governmental administration, resisting arrest, and disorderly conduct (Encl. 12D-M).

Criminal Court Complaint

In the Criminal Court Complaint against § 87(2)(b) PO Figueroa stated that § 87(2)(b) behaved in an aggressive and violent manner during their interaction, screaming “Fuck them, fuck them, they ain’t nobody, ignore them” and, “What, you want to fight, let’s fight” in PO Figueroa’s face. Later, § 87(2)(b) resisted PO Figueroa’s attempts to handcuff him by moving his arms. In the Criminal Court Complaint against § 87(2)(b) Schnholster, PO Figueroa stated that § 87(2)(b) § 87(2)(b) § 87(2)(b) interfered in an arrest by standing between PO Figueroa and the arrested individual. She also pushed PO Figueroa away from the individual. PO Figueroa asked § 87(2)(b) § 87(2)(b) § 87(2)(b) to cease her interference, but she refused (Encl. 12N-P).

Medical Treatment of Prisoner Report

According to the Medical Treatment of Prisoner Report for § 87(2)(b) § 87(2)(b) § 87(2)(b) which was filled out by PO Figueroa, § 87(2)(b) § 87(2)(b) § 87(2)(b) had mace in her eyes. She was treated at Metropolitan Hospital (Encl. 12Q).

CCRB Testimony

On October 25, 2011, PO Edgar Figueroa was interviewed at the CCRB (Encl. 12R-S). On May 26, 2011, at approximately 10:15 p.m., PO Figueroa and PO Leek observed § 87(2)(b) § 87(2)(b) and a group of approximately five females talking in front of § 87(2)(b) § 87(2)(b) for about twenty minutes. Sgt. Gerrity had told PO Figueroa to keep the location clear because there had been a large group fight at the location earlier that same day. PO Figueroa informed § 87(2)(b) § 87(2)(b) and the other females to move from the location. § 87(2)(b) § 87(2)(b) and her friends moved from the location. After approximately fifteen minutes, § 87(2)(b) § 87(2)(b) and one additional female returned to the location and stood there and talked again. PO Figueroa approached and told them to move a second time. § 87(2)(b) § 87(2)(b) and her friend ignored PO Figueroa’s command. He then explained that he had to clear the area due to the earlier fight. His tone was not confrontational.

§ 87(2)(b) § 87(2)(b) § 87(2)(b) s brother, saw PO Figueroa speaking to his sister through a glass window from inside of § 87(2)(b) § 87(2)(b) approximately fifteen feet away. He opened the door to the building and screamed at § 87(2)(b) § 87(2)(b) § 87(2)(b) telling her to come inside. She then entered the building. § 87(2)(b) then stepped out of the building, but did not approach PO Figueroa. He stated aloud, “Fuck those pigs.” PO Figueroa did not clarify whether § 87(2)(b) directed this remark to the officers. PO Figueroa said, “Come here.” § 87(2)(b) then ran into the building. PO Figueroa decided to follow § 87(2)(b) intending to ask him why he had reacted in such an extreme manner to the officers’ presence. The building’s security guard allowed PO Figueroa and PO Leek inside. PO Figueroa told § 87(2)(b) “Stop, come here.” § 87(2)(b) continued walking out into the building’s courtyard, and the officers followed. There were approximately twenty people inside of the courtyard. PO Figueroa could smell alcohol and marijuana. One individual, later identified through the course of the investigation as § 87(2)(b) § 87(2)(b) s brother § 87(2)(b) said, “Leave my brother alone.” § 87(2)(b) § 87(2)(b) approached the officers and removed his shirt. He then asked whether the officers wanted to fight. § 87(2)(b) then said, “You guys want to fight, let’s fight.” Since he and his partner were outnumbered, PO Figueroa called for backup.

Within a few minutes, more than ten officers in a mix of uniforms and plainclothes entered the courtyard. PO Figueroa did not recall the officers' identities. The civilians in the area scattered and ran away. The officers appeared to be from the 23rd Precinct and PSA 2. PO Figueroa approached § 87(2)(b) and said, "You're under arrest." He then placed one of § 87(2)(b)'s wrists in handcuffs. He did not recall which wrist was cuffed. PO Figueroa told § 87(2)(b) to give him his other wrist, but he refused to comply. About five of the newly-arrived officers, as well as PO Leek, then joined PO Figueroa in attempting to handcuff § 87(2)(b). The weight of these officers pushed § 87(2)(b) down to the ground. § 87(2)(b) then placed his uncuffed hand under his body. PO Figueroa commanded him to give up his hand. The gathered officers began trying to pull § 87(2)(b)'s arm from under his body so he could be fully handcuffed. PO Figueroa did not strike § 87(2)(b) with an asp, punch or kick him and he did not see any other officer do so. § 87(2)(b) was eventually handcuffed after about two minutes of struggle. After the handcuffing, PO Figueroa observed scrapes on § 87(2)(b)'s elbows. Both § 87(2)(b) and PO Figueroa had blood on their shirts from § 87(2)(b)'s elbows. When shown the scrapes visible on § 87(2)(b)'s face in his arrest photograph, PO Figueroa stated that he did not know where the scrapes had come from, but assumed that they resulted from being brought down to the ground by the officers. PO Figueroa did not use pepper spray against any individual and he did not observe any other officer use their pepper spray during his time in the courtyard. None of the officers, PO Figueroa included, pushed § 87(2)(b)'s face to the ground during the struggle, using a boot or any other means.

§ 87(2)(b) and § 87(2)(b) § 87(2)(b) were taken outside and placed inside of a prisoner van. PO Figueroa did not observe any officers throw § 87(2)(b) § 87(2)(b) into the prisoner van and he did not observe her hit her face against § 87(2)(b)'s knee. At the 23rd Precinct stationhouse, § 87(2)(b) and § 87(2)(b) § 87(2)(b) were separated. PO Figueroa did not observe any officers take § 87(2)(b) § 87(2)(b) to the ground and he did not observe § 87(2)(b)'s clothing removed. § 87(2)(b) was later taken to the hospital, in the clothing he had worn to the stationhouse.

Subject Officer: PO DANIEL LEEK

- *PO Daniel Leek, § 87(2)(b)*.
- *On May 26, 2011, PO Leek worked in uniform from 4:00 p.m. until 12:35 a.m. assigned to foot post 13 with PO Figueroa.*

Memo Book

At 10:31 p.m., PO Figueroa arrested two individuals. A large crowd formed and the officers requested assistance (Encl. 13A-C).

CCRB Testimony

On December 12, 2011, PO Leek was interviewed at the CCRB (Encl. 13D-F). On May 26, 2011, PO Leek was informed by Sgt. Gerrity that a fight had occurred on the corner of East 112th Street and Madison Avenue prior to his tour. Sgt. Gerrity wanted PO Leek and PO Figueroa to keep the corner clear of all individuals. At approximately 10:15 p.m., PO Leek observed approximately five females, including § 87(2)(b) § 87(2)(b) standing on the corner. He told them that a fight had occurred and that they needed to keep the location clear. PO Leek and PO Figueroa did not request any identification from any of the females and they did not speak with any

particular female in the group. The females informed the officers that they were waiting for someone; however, PO Leek and PO Figueroa insisted that they either go home or enter into § 87(2)(b) § 87(2)(b) § 87(2)(b)

As PO Leek and PO Figueroa spoke with the group, an individual identified by the investigation as § 87(2)(b) opened the door to § 87(2)(b) and cursed at the officers for talking with his sister. § 87(2)(b) was approximately five feet away from PO Figueroa, PO Leek and § 87(2)(b). § 87(2)(b)'s group. § 87(2)(b) yelled obscenities at PO Leek, stating, "Why the fuck are you bothering my little sister," and, "Fuck the police." He then gave PO Leek the middle finger. PO Figueroa told PO Leek that he wanted to speak with § 87(2)(b). PO Figueroa walked toward § 87(2)(b) to explain why he had spoken with his sister; however § 87(2)(b) re-entered the building and closed the door behind him before PO Figueroa could speak to him.

Through a window, PO Figueroa and PO Leek observed § 87(2)(b) walk into the building, up a small flight of stairs and into a courtyard. PO Figueroa told PO Leek that he wanted to follow § 87(2)(b) inside to ask him why he had reacted so strongly to their presence. The security guard at the front desk opened the front door and allowed the officers inside. PO Figueroa and PO Leek then entered the courtyard, where they observed approximately thirty people sitting. § 87(2)(b) continued to yell at the police. He then picked up a partially-empty glass bottle from the ground, which PO Leek considered to be a weapon. § 87(2)(b) did not break the bottle or make any gestures with it. PO Leek stated that the bottle contained an alcoholic beverage, but did not state how he knew this. § 87(2)(b) paced back and forth. His eyes appeared glassy and he looked intoxicated. His behavior drew the attention of the people in the courtyard. § 87(2)(b) approached the officers, but did not make contact with either of them. § 87(2)(b)'s brother, § 87(2)(b) walked up and spoke to PO Leek, but PO Leek was unable to remember what was said. § 87(2)(b) initially attempted to calm his brother down, but at some point, he became animated and angry.

PO Figueroa and PO Leek remained at the location in order to identify § 87(2)(b) and determine whether he belonged at the location. They also intended to issue him a summons for disorderly conduct. PO Figueroa called for backup officers because the individuals in the courtyard outnumbered them. PO Leek tried to defuse the situation by speaking with § 87(2)(b) asking him to calm down. He managed to convince § 87(2)(b) to put down the bottle, but did not succeed in calming him. § 87(2)(b) was not responsive to PO Leek's attempts at conversation. He then told PO Leek, "I'll punch you," and, "We hold down our own, this is our house, we'll fight the police, we'll fight all of you." § 87(2)(b) issued similar threats, but PO Leek did not repeat any of them. Residents within the building began to throw objects down at the officers from the windows. PO Leek and PO Figueroa determined that it would be impossible to issue § 87(2)(b) a summons due to the hostile reaction it might provoke from the residents.

When the backup officers arrived, PO Figueroa and PO Leek attempted to grab § 87(2)(b)'s arms to place him under arrest. § 87(2)(b) pulled his arms away, so the officers pushed him to the ground to handcuff him more easily. PO Leek then noticed that § 87(2)(b)'s elbow was bleeding. He did not appear to have any other injuries. § 87(2)(b) extended his arms out to prevent them from being joined by the handcuffs. PO Figueroa and PO Leek struggled to bring his arms behind his back for handcuffing. PO Figueroa

was able to place a handcuff on one of § 87(2)(b)'s arms, but struggled to cuff the other arm. Approximately two to three officers, whom PO Leek did not recall, assisted in the arrest by grabbing and pulling on § 87(2)(b)'s arms. No officers kicked § 87(2)(b) or hit him with an asp. PO Leek did not step on § 87(2)(b)'s face with his boot. He did not see any other officer do this either. He did not observe any injuries to § 87(2)(b)'s face at this time. PO Leek did not pepper spray anyone at the location and he did not see anyone get pepper sprayed; however, he believed that pepper spray was used because he could smell it in the air. PO Leek did not hear any plainclothes officers state, "Get back or I'm going to mace you."

Eventually, the officers were able to handcuff § 87(2)(b). Once he was in handcuffs, PO Figueroa and PO Leek walked him to a patrol van. § 87(2)(b), § 87(2)(b), § 87(2)(b) was also in handcuffs and being escorted to the patrol van. PO Leek did not see how or why she had been placed under arrest. § 87(2)(b), § 87(2)(b), § 87(2)(b)'s eyes were red and tearing, and it appeared that she had been pepper sprayed. § 87(2)(b) was placed in the van, but § 87(2)(b), § 87(2)(b) refused to enter, and had to be lifted inside. PO Leek assisted in lifting her. He did not specify how she was lifted. PO Leek did not observe her hit her face on § 87(2)(b)'s knee. PO Figueroa and PO Leek accompanied § 87(2)(b) and § 87(2)(b), § 87(2)(b), § 87(2)(b) to the 23rd Precinct stationhouse in the patrol van. They were taken inside to the desk officer and PO Leek returned to the patrol van to clean it out because § 87(2)(b) had bled on the seats. PO Leek did not see § 87(2)(b), § 87(2)(b), § 87(2)(b) or § 87(2)(b) again after he left the stationhouse. He never observed § 87(2)(b) without his clothing and he did not see when he was removed to the hospital. PO Leek did not observe any officers take § 87(2)(b), § 87(2)(b), § 87(2)(b) to the ground inside of the stationhouse.

Witness Officer: LT. WILLIAM COOK

- *Lt. William Cook, § 87(2)(b)*
- *On May 26, 2011, Lt. Cook was assigned as the SNEU supervisor. He did not work with any particular officer. Lt. Cook worked from 1:15 p.m. until 10:00 p.m. in uniform and in a marked vehicle.*

Memo Book

At 10:30 p.m., Lt. Cook responded to § 87(2)(b) in Manhattan. At 11:00 p.m., two individuals were arrested (Encl. 14A).

CCRB Testimony

On January 31, 2012, Lt. William Cook was interviewed by the CCRB (Encl. 14B-C). On May 26, 2011, at approximately 10:30 p.m., Lt. Cook received a call for assistance from § 87(2)(b) in Manhattan. The investigation identified PO Edgar Figueroa as the officer who made the call. Lt. Cook left the stationhouse and went directly to the location. He did not recall whether he was with any other officers. Lt. Cook arrived at the location and observed multiple officers entering and leaving the location. Lt. Cook could only positively identify the officers listed on the CCRB interview sheet as present at the location; he did not have an independent recollection of any other officers there. Lt. Cook did not recall any other supervisors wearing white shirts at the location. Lt. Cook observed several uniformed officers that were not from the 23rd Precinct at the location. He assumed they were housing officers, but was not certain. He did not recall what actions these officers took.

Lt. Cook is familiar with § 87(2)(b) because it is the home of a gang that operates out of the location. Lt. Cook entered the building and entered into an enclosed courtyard. Lt. Cook could not estimate the number of police officers or civilians present. Lt. Cook observed bottles being thrown; he could not determine whether the bottles were thrown across the courtyard or by whom in particular. A male, identified through investigation as § 87(2)(b) was on the ground and several officers were surrounding him and trying to handcuff him. Lt. Cook could not describe their actions any further. Lt. Cook assumed § 87(2)(b) resisted arrest because the officers were not able to handcuff him within seconds. Lt. Cook did not recall what actions the officers took in order to handcuff § 87(2)(b). He did not observe any officer punch, kick or hit § 87(2)(b) with an asp. Lt. Cook did not become physically involved with the struggle to handcuff § 87(2)(b) or any other civilian at the location. Lt. Cook stated that his officers were not injured and that they left the location with the two arrested individuals as soon as possible.

Lt. Cook did not recall any details about the arrested female, identified through investigation as § 87(2)(b). He did not witness her arrest. Lt. Cook did not interact directly with § 87(2)(b). Lt. Cook did not recall whether he used any physical force at the location. Lt. Cook did not recall whether he pepper sprayed § 87(2)(b) or anyone else at the location. Lt. Cook did not see § 87(2)(b) get pepper sprayed. Lt. Cook did not observe an officer in plainclothes pepper spray a group of people at the location. Lt. Cook did not recall whether any plainclothes officers were present at the location.

Lt. Cook escorted § 87(2)(b) and § 87(2)(b) to a prisoner van. Lt. Cook did not observe any injuries to either of them. He did not specify how the § 87(2)(b) entered the van. Lt. Cook did not recall whether blood appeared on § 87(2)(b)'s clothing or anywhere else at the location. Lt. Cook stated that he had a red or pink stain on his shirt at the time, but that it came from a bottle of juice that had been thrown at him by an unknown individual.

Lt. Cook returned to the stationhouse. He did not observe § 87(2)(b) or § 87(2)(b) at the stationhouse. Lt. Cook did not see § 87(2)(b) inside of the stationhouse wearing an undershirt and boxer shorts, and he did not see that his jeans and outerwear had been removed. Lt. Cook did not know what caused Tujanna § 87(2)(b) or § 87(2)(b) to go to the hospital as indicated on the Command Log. Lt. Cook reviewed a copy of the Medical Treatment of Prisoner Report prepared for § 87(2)(b) that indicated that she had been pepper sprayed; however, he did not recall that occurring and he did not recall whether § 87(2)(b) had complained about having been pepper sprayed.

Witness Officer: SGT. JAMES GERRITY

- *Sgt. Gerrity, § 87(2)(b).*
- *On May 26, 2011, Sgt. Gerrity worked in uniform from 4:00 p.m. until 11:59 p.m. Sgt Gerrity was assigned as the tracer supervisor, and he worked in a marked van with PO Luis Sanchez.*

Memo Book

At 10:00 p.m. a police officer's call for assistance was made at § 87(2)(b) and at 10:30 p.m., two people were arrested (Encl. 15A-C).

CCRB Testimony

On January 18, 2012, Sgt. Gerrity was interviewed at the CCRB (Encl. 15D-E). Earlier in the day on May 26, 2011, a fight had occurred in the vicinity of § 87(2)(b) in Manhattan. Two officers were placed on the corner to make sure the area stayed calm. At approximately 10:36 p.m., he responded to § 87(2)(b) to an officer's call for assistance. Sgt. Gerrity observed multiple police officers at the location and two individuals, identified through the course of the investigation as § 87(2)(b) and § 87(2)(b) § 87(2)(b) in handcuffs. Sgt. Gerrity did not observe their. Sgt. Gerrity stated that there were officers from both the housing unit and the 23rd Precinct present. Sgt. Gerrity observed the § 87(2)(b) being escorted into the prisoner van. Both of them stepped into the van; neither were physically thrown into the van. All of the officers were in uniform.

Witness Officer: PO CHRISTOPHER BANAS

- *PO Banas, § 87(2)(b)*
- *On May 26, 2011, PO Banas worked from 2:00 p.m. to 10:35 p.m. He was assigned to Anti-Crime with PO Carl Achille. He was in uniform, and assigned to an unmarked yellow taxi cab, RMP #4308.*

Memo Book

PO Banas did not have any memo book entries regarding the incident (Encl. 16A-B)

CCRB Testimony

On June 27, 2012, PO Banas was interviewed at the CCRB (Encl. 16C-D). PO Banas did not recall the incident. He was still unable to recall the incident after being given a description of the what occurred. PO Banas did not recognize photographs of § 87(2)(b) § 87(2)(b) or § 87(2)(b) PO Banas also stated that given the location of the incident, officers from multiple commands were likely to have responded to any call for backup.

Officers Not Interviewed

- PO Luis Sanchez and PO Carl Achille were not interviewed because their testimony would not change the recommended dispositions of any of the allegations.
- Sgt. George Rivera was not interviewed because he had retired. His retirement was confirmed by the investigation on September 29, 2011.

Medical Records

§ 87(2)(b) Hospital Records

§ 87(2)(b) Hospital has no records of ever treating § 87(2)(b) (Encl. 17A).
§ 87(2)(b) § 87(2)(b) did not receive any medical treatment as a result of the incident.

NYPD Document(s)

SPRINT #X16176

According to the SPRINT report, PO Figueroa called for backup units to § 87(2)(b) at 10:33 p.m. RMP #9095, the tracer sergeant, identified by the investigation as Sgt. Gerrity, a lieutenant, identified by the investigation as Lt. Cook, and foot post 13 all responded to the scene. No officers were injured. Two ambulances were directed to the 23rd Precinct at 10:41 p.m., and

arrived at 11:00 p.m. Lt. Cook reported that two arrests were made at the scene at 10:31 p.m. The arrests were assigned to foot post 13. The two perpetrators resisted arrest (Encl. 18A-D).

Arrest Photographs

§ 87(2)(b)'s arrest photograph shows him with several small scrapes on the right side of his face, on his temple, cheek and near his eye (Encl. 18E). § 87(2)(b) § 87(2)(b)'s arrest photograph does not show any injuries or significant redness of the eyes (Encl. 18F).

Roll Call – 23rd Precinct

According to the tour 3 roll call for May 26, 2011, PO Figueroa and PO Leek were assigned to foot patrol 14 at the time of the incident. Lt. Cook was assigned as the supervisor of operations in RMP #5818, with PO Gonzalez and PO Habrahamson as his operators. Sgt. Gerrity was assigned as the tracer sergeant in RMP #5372, with PO Frias and PO Sanchez as his operators. Sgt. Rivera was assigned as the desk sergeant. PO Christopher Banas was assigned to Anti-Crime (Encl. 18G-P).

Command Log – 23rd Precinct

According to the command log for the 23rd Precinct on May 26, 2011, § 87(2)(b) and § 87(2)(b) § 87(2)(b) were both arrested by PO Figueroa. The arrests were both supervised by Lt. Cook. § 87(2)(b)'s physical condition was listed as intoxicated. § 87(2)(b) requested medical attention, but the type was not specified. He was removed to § 87(2)(b) Hospital at 11:00 p.m., and returned at 3:20 p.m. on § 87(2)(b). No mention was made of a strip search. § 87(2)(b) § 87(2)(b) § 87(2)(b) complained of bumps on her head and pains to her right wrist. She was removed to § 87(2)(b) Hospital at 11:30 p.m., and returned at 6:10 a.m. on § 87(2)(b). No mention was made of pepper spray (Encl. 18Q-R).

§ 87(2)(b), § 87(2)(a) 160.50

■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]

Status of Civil Proceedings

responded to the location, which is located within a few blocks of four separate precincts and is across the street from a NYCHA housing development. Given the lack of descriptions and the large number of commands likely to be involved, it is impossible to identify these officers. Therefore, Allegations C, E and F have been pleaded against “officers” from an unknown command.

Allegations Not Pleaded

- § 87(2)(b) § 87(2)(b) § 87(2)(b) alleged that PO Figueroa and PO Leek stopped her friend known only to her as, § 87(2)(b) however, she did not provide the CCRB with any contact information for § 87(2)(b). The CCRB was unable to contact the individual for necessary information to assess the allegation and therefore, a stop allegation was not pleaded.
- § 87(2)(b) § 87(2)(b) alleged that PO Figueroa told him he was under arrest and pushed him into a gate. Because this did not knock § 87(2)(b) over or cause him any injuries as alleged the force used was minimal, and consistent with the force used generally to arrest individuals. Therefore, an allegation of force was not pleaded.
- § 87(2)(b) § 87(2)(b) alleged that a group of officers, including PO Figueroa and PO Leek, punched and kicked him while trying to handcuff him. Since he also alleged that he was struck with asps at the same time, the punches and kicks have been subsumed into the asp allegation.
- § 87(2)(b) § 87(2)(b) § 87(2)(b) alleged that she was struck while trying to reach for her brother. She could not describe where she was hit, how she was hit, or who hit her. The blow did not cause any injuries. Her reaching towards § 87(2)(b) also constitutes interference with an arrest. Therefore, an allegation of force was not pleaded.
- § 87(2)(b) § 87(2)(b) § 87(2)(b) alleged that § 87(2)(b) had been pepper sprayed, although she did not see it occur. § 87(2)(b) § 87(2)(b) alleged that § 87(2)(b) was also pepper sprayed. § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) failed to participate with the investigation; therefore, a pepper spray allegations were not pleaded against officers regarding these specific individuals.
- § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) § 87(2)(b) both alleged that they were “thrown” into the prisoner van. They did not clarify if this meant that they were physically lifted and heaved into the van, or if they were pushed into the van against their will. § 87(2)(b) § 87(2)(b) stated that she saw both siblings walk into the van, and did not allege any physical force. § 87(2)(b) § 87(2)(b) s statement supports an account of the van entry where § 87(2)(b) § 87(2)(b) were not lifted and tossed inside. Therefore, a force allegation was not pleaded.
- § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) alleged that she was placed on the floor of the 23rd Precinct stationhouse when she reached for her brother’s pants. As it is alleged, the force used is not excessive, since it was used to control her and prevent her from interfering with the search of her brother. She also did not suffer any injuries. Therefore, an allegation of force was not pleaded.

Investigative Findings and Recommendations

Allegation A – Force: At § 87(2)(b) § 87(2)(b) in Manhattan, PO Edgar Figueroa struck § 87(2)(b) § 87(2)(b) with an asp.

Allegation B – Force: At § 87(2)(b) § 87(2)(b) in Manhattan, PO Daniel Leek struck § 87(2)(b) § 87(2)(b) with an asp.

Allegation C – Force: At § 87(2)(b) § 87(2)(b) in Manhattan, officers struck § 87(2)(b) § 87(2)(b) with an asp.

After PO Figueroa informed him that he was under arrest, § 87(2)(b) stated that he was brought to the ground by a group of officers, including PO Figueroa and PO Leek, and then punched, kicked and struck with asps approximately twenty times. § 87(2)(b) also stated that while he was on the ground, officers attempted to handcuff him, but that he resisted their efforts by placing his left arm underneath his body. § 87(2)(b) suffered abrasions to his face and elbows. The abrasions on his face were visible in his arrest photograph, but no medical documentation of his injuries could be found. § 87(2)(b) stated that § 87(2)(b) was struck multiple times with an asp, but did not allege that officers punched or kicked him. § 87(2)(b) PO Figueroa and PO Leek confirmed that he resisted arrest and that § 87(2)(b) held his uncuffed hand underneath his body when he was on the ground, and refused to let officers handcuff him. PO Figueroa and PO Leek stated that no officer punched or kicked § 87(2)(b) or used an asp while attempting to subdue him. PO Figueroa and PO Leek stated that § 87(2)(b) was pushed to the ground, and that once he was on the ground, the arresting officers only tried to pull his arms out from under him.

According to Patrol Guide Procedure 203-11, “Only that amount of force necessary to overcome resistance will be used to effect an arrest” (Encl. 1A-B). § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation D – Force: At § 87(2)(b) in Manhattan, PO Edgar Figueroa used his foot to push § 87(2)(b) s face into the ground.

§ 87(2)(b) and § 87(2)(b) both alleged that PO Figueroa pushed the right side of § 87(2)(b) s face into the ground with his boot during the struggle. On his arrest photograph, § 87(2)(b) has abrasions to the right side of his face. PO Figueroa and PO Leek both denied observing any officer pushing § 87(2)(b) s face into the ground by any means. No other statements were made regarding this allegation. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation E – Force: At § 87(2)(b) in Manhattan, officers used force against § 87(2)(b)

§ 87(2)(b) alleged that officers struck him three times in the back after he was handcuffed. Initially, he had stated that he had not been hit after he had been handcuffed. He did not know which officers struck him, or what kind of blows he received. He did not state whether he had continued resisting the officers after he was placed in handcuffs. No other civilian statements corroborated this allegation. He did not allege any injuries as a result of this force. PO Figueroa and PO Leek both denied striking § 87(2)(b) or seeing any other officers strike him during the incident. § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Allegation F – Force: At § 87(2)(b) in Manhattan, officers used pepper spray against § 87(2)(b) and § 87(2)(b)

Both § 87(2)(b) and § 87(2)(b) alleged that they were pepper sprayed by officers. § 87(2)(b) stated that she was pepper sprayed when she attempted to physically interfere with her brother's arrest. § 87(2)(b) stated that she and several unidentified individuals were sprayed when an officer ordered them to step away from § 87(2)(b) stated that he witnessed § 87(2)(b) being sprayed. PO Leek testified that he smelled pepper spray at § 87(2)(b) though he did not see any officers using it. § 87(2)(g)

Allegation G – Abuse of Authority: At the 23rd Precinct stationhouse, Sgt. George Rivera authorized the strip search of § 87(2)(b)

§ 87(2)(b) alleged that he was strip searched by two unidentified officers at the stationhouse. According to the roll call, Sgt. Rivera was assigned as desk sergeant at the time of the incident, and would therefore have supervised any strip search at the stationhouse. On September 29, 2011, it was confirmed that Sgt. Rivera had retired. § 87(2)(g)

Team: _____

:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date